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in the absence of a clause in a State constitution corresponding with the Fifth Amendment, a State may not take property for public use without compensation, that such a taking is not "due process of law." The truer historical view seems to be that the right to take and the moral duty to compensate are separate, and that failure to compensate does not invalidate the taking. But the position supported is consistent with the general attitude which the author assumes.

This attitude is the distinctive mark of the book. An ethical theory runs through the work, that the Fourteenth Amendment embodies a broad bill of rights; that the country is greatly menaced by improper legislation, and that its salvation is to be found in a broad construction of the Fourteenth Amendment. To this end the author gives to the word "liberty" its widest meaning, as equivalent to "freedom in the pursuit of happiness;" he wishes to include under the "privileges and immunities of citizens" all the rights mentioned in the first eight amendments; he regrets that the progressive income tax was not condemned as depriving citizens of the equal protection of the laws. This attitude is open to criticism, although the Supreme Court is showing a tendency to adopt it. Chief Justice Marshall's warning has a double-edged significance; we must remember it is a constitution with which we are dealing. While a constitution may well guarantee certain fundamental rights, such as that to personal freedom from restraint — which, indeed, is what "liberty" has always meant, unless this century has strangely broadened its significance — a constitution should not be expected to contain a solution of political problems, nor to act as a curb upon legislation *bonâ fide*, even though erratic. The danger of Mr. Guthrie's attitude is that it tends to shift the responsibility of government from the legislature to the courts, where it does not belong.

J. G. P.

THE LAW OF MONOPOLIES AND INDUSTRIAL TRUSTS. By Charles Fisk Beach, Sr. St. Louis: Central Law Journal Co. 1898. pp. lxx, 760.

The greatness of the commercial interests involved and the novelty of many of the legal problems discussed make this treatise of peculiar importance. It is the principal topic alone, however, that gives the book character. The chapters dealing with the legal effect of contracts restraining trade and limiting the exercise of professions add little to common knowledge. pp. 107-224. Again, such chapters as those on trades unions, municipal contracts, and railway agreements are, at most, illustrative, and develop little new in principle. pp. 286-499. Nevertheless, the clearness of the exposition, and the fulness of the citations go far to justify these subsidiary portions of the work.

Interest centres in the discussion of the industrial "trust" — that vital problem of modern economics as of modern law. The "trust" has arisen, and has developed three defined forms within a decade. In the first class, the stock of the combining corporations is transferred to a board of trustees; in the second class, a central corporation acquires the stock of the absorbed companies; in the third class, a central corporation takes the property of the merged companies outright. The thesis of the author is that all are equally illegal by common law. But, the assumption that the whole doctrine against restraints of trade is elemental common law may well be questioned. p. 6. Nothing seems clearer in an examina-

tion of the old records than that the ancient law touching the subject was, in a most detailed manner, statutory. *The Lombard's Case*, Lib. Ass. pl. 38. Accordingly, we find modern English common law very cautious. *Mogul Steamship Co. v. McGregor*, [1892] App. Cas. 25. It must, however, be recognized that the author has the support of the American cases. These go far in giving relief without the aid of statute against "trusts" and "quasi-trusts" by common law actions, *quo warranto* proceedings, and injunctions. The question at common law is of less importance to-day from the number and severity of the late statutes. These exist for the United States and for two-thirds of the States. To note the letter of the law and to see the continued growth of "trusts," leads one to consider the question as yet political — not legal. So we find that attorneys-general usually do not move against the formation of "trust" corporations nor their legitimate business operations, but only against the "trust" that raises prices by stifling production and ruins competitors by differential rates. This policy of regarding these laws as regulative, not prohibitory, seems defensible, despite the indignation of the author.

B. W.

THE LAW RELATING TO BUILDING AND LOAN ASSOCIATIONS. By Wm. W. Thornton and Frank H. Blackledge. Albany, N. Y.: Matthew Bender. 1898. pp. lxvi, 950.

The body of law which has grown up regarding building and loan associations cannot be readily treated as a separate branch of law. The plans and business methods of these organizations have differed widely; they have been commonly mismanaged; their existence has been spasmodic, and public favor has blown hot and cold concerning them since their beginning, a century ago. They have been variously incorporated and constantly surrounded and limited by special legislation. The result has been a conglomerate mass of petty litigation. The authors of this book have made no attempt to systematize that litigation, — rather they have pigeon-holed it. Each department or function of a building and loan society is taken up in turn, and the decisions limiting and defining it are briefly expounded. It can hardly be expected that such a volume will prove of aid to the organizer, the active worker in those societies. Its value must be as a book of reference to the lawyer who chances to be dealing with such subjects. From his point of view, the work is well done, the collection of cases careful and comprehensive, the annotation constant. As of particular merit may be pointed out the chapters on two distinctive features of building associations, fines and the right of withdrawal.

The second half of the volume, which figures modestly as "appendices," contains a collection of forms and tables showing the organization and management of a society: business methods, plans of book-keeping, a model set of by-laws, etc. These forms and suggestions might be of great value to the actual worker in such societies, but it is hard to see their connection with the text of the book, — the greater part of them are in no sense supplementary to it, and their insertion must be deemed an error in judgment.

J. P. C. JR.